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**BASF**

C. William Axce  
General Manager

February 26, 1988

Mr. Charles H. Sutfin  
Director, Water Division  
U. S. Environmental Protection Agency  
Region V  
230 South Dearborn Street  
Chicago, IL 60604

RECEIVED  
MAR 03 1988  
U.S. EPA REGION V  
WASTE MANAGEMENT DIVISION  
OFFICE OF THE DIRECTOR

Dear Mr. Sutfin:

Subject: Administrative Order No. V-W-88-AO-31

BASF believes that the order sent to it by EPA is invalid and in contradiction of the Consent Decree reached with USEPA and Michigan DNR and is otherwise beyond the power of the EPA. BASF specifically reserves its right to contest the recent order and to seek a judicial solution under the continuing jurisdiction of the Consent Decree.

In the spirit of our earlier discussions, BASF attaches a copy of a proposal for sampling the three ditches at the Riverview Site. As stated in the February 24 letter of Thomas Hays to Beth Shenkier, BASF would like to meet with EPA to discuss this matter. We can then discuss the sampling submittal, an implementation schedule and other necessary tasks.

In order to make clear for the record, BASF makes the following additional comments to the Order by paragraph:

Findings

1. BASF disagrees with this description.
3. BASF contests this finding.
4. This is a legal conclusion requiring no response.
5. This is a legal conclusion. Further, this order is contrary to the Riverview Consent Decree.

Order

In general: BASF contests the validity of the order and believes it is contrary to the Riverview Consent Decree.

February 26, 1988

1. BASF has submitted the plan requested by paragraph "2". However, BASF cannot agree to all of the Order provisions as stated below. Further, BASF believes some of the questions are ambiguous and that compliance with the questions makes meeting the deadline impossible.
2. Done. However, BASF notes that because this order is invalid, it was not required to do so.
3. Since BASF cannot know the nature and scope of any comments, it cannot agree to a 15-day limit, nor can it agree to incorporate comments which it has not seen are contrary to law and regulation or do not achieve the purpose.
4. Since BASF does not know when it will receive comments or when the final plan will be approved, it cannot agree to implement a plan on April 1.
5. See paragraph 4 comments. Further, BASF does not know if a plan meeting the requirements of paragraph can be implemented by September 30.
6. See comments to paragraphs 4 and 5. The same reasoning holds true here.

BASF strongly objects to the statements of the final, unnumbered paragraphs which are in total disregard of the Riverview Consent Decree signed by the U. S. Government.

In summary, BASF has indicated its willingness to work with both EPA and MDNR as we earlier indicated at our meeting. The attache submittal shows our good faith. We are willing to discuss the sampling plan and to implement the sampling plan if agreement can be reached and to submit the results to EPA and MDNR.

Yours very truly,



C. W. Axce  
General Manager

cc: R. Newport, USEPA, Region V  
B. Eleder, USEPA  
C. Morse, MDNR  
L. Lipinski, MDNR

BASF CORPORATION PLAN  
REQUIRED BY ADMINISTRATIVE ORDER NO. V-W-88-AO-31

A detailed plan of study for evaluating the extent to which pollutants may be discharged from the ditches at the site to the Trenton Channel of the Detroit River is hereby included.

- a) BASF shall determine an estimated annual volume of seepage from the site's central concrete-lined ditch by erecting a temporary dam in the ditch as close to the eastern fenceline as practical. The total seepage water will be collected behind the dam during three (3) 5-10 day dry periods without precipitation.
- b) Seepage water impounded behind the dam will be representatively sampled and analyzed at the end of each collection cycle for the parameters benzo-(a)pyrene, naphthalene, pentachlorophenol, mercury and arsenic using analytical and reporting procedures set forth in Consent Decree 8073699.
- c) The extent of seepage which may occur at the other two ditches will be determined through weekly visual inspections during wet and dry periods. If flow is confirmed, a similar damming of the ditches will be done to collect and quantify potential discharge volumes. The impounded water will also be analyzed in a manner described in 2b.
- d) Stormwater run-off quantity will be estimated using standard engineering factors and/or temporary installation of suitable flow measurement devices.

- e) Stormwater events, where the estimated flow rate exceeds 5GPM observed during normal business hours will be sampled and analyzed as described in 2b. Stormwater data will be collected during at least two spring and two summer storm events.

ORDER 3

BASF will change the plan based on practical recommendations received at least 15 days prior to the implementation date from Leonard Lipinski on behalf of MDNR or Robert Newport, EPA, Region V.

ORDER 4

The program for measuring the volume of certain seepage and collection of water samples envisioned by BASF may require permit(s) from the U.S. Army Corps of Engineers and/or MDNR. If either of these agencies require a permit, the time schedule established in 4, 5 and 6 will have to be modified to account for time required to obtain the permit(s).

 2/26/88

C. W. Axce